

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SWEET PEOPLE APPAREL, INC,

Plaintiff,

-against-

LAZEON CORP., XYZ COMPANIES
1-10, and JOHN AND JANE DOES 1-10.

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 2/17/16

14cv01647 (KMW) (DF)

**SCHEDULING ORDER
FOR A DAMAGES INQUEST**

DEBRA FREEMAN, United States Magistrate Judge:

This matter having been referred to me to conduct an inquest and to report and recommend concerning the damages to be awarded to plaintiff Sweet People Apparel, Inc. ("Plaintiff") upon the default of defendant Lazeon Corporation ("Defendant"), it is hereby ORDERED that:

1. Plaintiff shall file and serve on Defendant (with a courtesy copy to my chambers) Proposed Findings of Fact and Conclusions of Law concerning damages no later than March 18, 2016. Plaintiff shall include, with such service, a copy of this Order.
2. Plaintiff's Proposed Findings should specifically tie the proposed damages figure(s) to the legal claim(s) on which liability has now been established; should demonstrate how Plaintiff has arrived at the proposed damages figure(s); and should be supported by an affidavit that attaches as exhibits and contains an explanation of any documentary evidence that helps establish the proposed damages.

3. Further, to the extent that Plaintiff seeks attorneys' fees and litigation costs, Plaintiff's submission should:

- a. provide copies of its attorneys' contemporaneous time records, so that this Court may assess whether the requested fees are reasonable, *see New York Ass 'n for Retarded Children, Inc. v. Carey*, 711 F.2d 1136, 1148 (2d Cir. 1983);
- b. address the reasonableness of the hourly rates of its attorneys and their support staff, *see Arbor Hill Concerned Citizens Neighborhood Ass 'n v. Cnty. of Albany*, 522 F.3d 182, 190 (2d Cir. 2008); and
- c. provide copies of invoices or other documentation substantiating the amount of costs it has incurred.

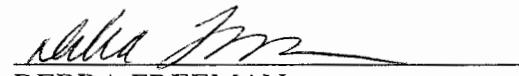
4. Defendant shall submit its response, if any, to Plaintiff's submission no later than April 18, 2016. Defendant is cautioned that, as a corporation, any submission it makes to the Court must be made through counsel.

5. IF DEFENDANT FAILS TO RESPOND TO PLAINTIFF'S SUBMISSION BY APRIL 18, 2016, THEN THIS COURT WILL PROCEED TO ISSUE A REPORT AND RECOMMENDATION CONCERNING DAMAGES ON THE BASIS OF PLAINTIFF'S WRITTEN SUBMISSION ALONE. FURTHER, THIS COURT WILL NOT HOLD A HEARING ON DAMAGES, UNLESS DEFENDANT REQUESTS A HEARING, IN WRITING, BY APRIL 18, 2016. *See Action S.A. v. Marc Rich & Co.*, 951 F.2d 504, 508 (2d Cir. 1991) (Fed. R. Civ. P. 55(b)(2) "allows but does not require . . . a hearing"); *Fustok v. ContiCommodity Servs. Inc.*, 873 F.2d 38, 40 (2d Cir. 1989) ("[I]t [is] not necessary for the

District Court to hold a hearing, as long as it ensured that there was a basis for the damages specified in a default judgment.”).

Dated: New York, New York
February 17, 2016

SO ORDERED



DEBRA FREEMAN
United States District Judge

Copies to:

Plaintiff's Counsel (via ECF)

Michael I. Slapo, Esq.
Fox Rothschild LLP
100 Park Avenue, Suite 1500
New York, NY 10017